

HON. THOMAS S. ZILLY

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

RYAN DIAZ,

Plaintiff,

v.

NINTENDO OF AMERICA, INC.,

Defendant.

NO. 2:19-cv-01116-TSZ

**[PROPOSED] ORDER  
APPOINTING INTERIM CO-LEAD  
COUNSEL**

THIS MATTER, having come before the Court by Plaintiff Ryan Diaz in the above-captioned case by his Motion to Appoint Interim Co-Lead Counsel and supporting materials, and the Court being advised that Defendant Nintendo of America, Inc. takes no position with respect to this motion, IT IS ORDERED that the Motion is GRANTED as set forth below:

1. The Court hereby appoints Kim D. Stephens of Tousley Brain Stephens PLLC and Benjamin F. Johns of Chimicles Schwartz Kriner & Donaldson-Smith LLP as interim co-lead class counsel to act on behalf of the Plaintiff and the putative class of consumers who bought a Nintendo Switch and/or JoyCon controllers, with the responsibilities set forth below:

a. Determine and present (in briefs, oral argument, or such other fashion as may be appropriate, personally or by a designee) to the Court and opposing parties the position of the Plaintiffs on all matters arising during pretrial proceedings;

b. Coordinate the initiation and conduct of discovery on behalf of Plaintiff and the putative Class consistent with the requirements of the Federal Rules of Civil Procedure;

c. Convene meetings amongst counsel;

d. Conduct settlement negotiations on behalf of Plaintiff and the putative Class;

e. Delegate tasks to other counsel in a manner to ensure that pretrial preparation for Plaintiff and the putative Class is conducted efficiently and effectively;

f. Negotiate and enter into stipulations with opposing counsel as necessary for the conduct and efficient advancement of the litigation;

g. Monitor the activities of all plaintiff's counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided;

h. Perform such other duties as may be incidental to the proper coordination of Plaintiff's pretrial activities or authorized by further order of the court;

i. Serve as the primary contact for communications between the Court and any other plaintiffs' counsel;

j. Ensure that all notices, orders, and material communications are properly distributed (to the extent that they are not otherwise served on Plaintiff's counsel *via* the Court's electronic filing system); and

k. Communicate with defense counsel as necessary to promote the efficient advancement of this litigation.

2. Unless otherwise ordered by the Court upon a showing of good cause, this Order shall apply to any action filed in, transferred to, or removed to this Court which relates to the subject matter at issue in this case.

Presented by:

**TOUSLEY BRAIN STEPHENS PLLC**

By: s/ Kim D. Stephens

Kim D. Stephens, WSBA #11984

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Kaleigh N.B. Powell, WSBA #52684

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6 Dated this \_\_\_\_ day of \_\_\_\_\_, 2019.  
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Thomas S. Zilly  
United States District Judge  
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